

R381-70-3: LICENSE REQUIRED

Individuals and businesses that provide care for children are licensed and regulated by Child Care Licensing (CCL) unless they are specifically exempt under Utah law. The rules in this section explain who is required to be licensed. In licensed facilities, CCL rules apply to all qualifying children.

- (1) A person or persons shall be licensed as an out-of-school-time program if they provide services:
- (a) in the absence of the child's parent;
 - (b) in a place other than the provider's home or the child's home;
 - (c) for 5 or more qualifying children;
 - (d) for each individual child for less than 24 hours per day;
 - (e) on an ongoing basis, on 3 or more days a week and for 30 or more days in a calendar year;
 - (f) either for 2 or more hours per day on days when school is in session for the child receiving services and 4 or more hours per day on days when school is not in session for the children receiving services, or the provider offers services for 4 or more hours per day on days when school is not in session for the children receiving services;
 - (g) to children who are at least 5 years of age; and
 - (h) for direct or indirect compensation.

Proposed Rule Change

- (1) A person or persons shall be licensed as an out-of-school-time program if they provide services:
- (a) in the absence of the child's parent;
 - (b) in a place other than the provider's home or the child's home;
 - (c) for 5 or more qualifying children;
 - (d) for each individual child for less than 24 hours per day;
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 - ~~(f) either for 2 or more hours per day on days when school is in session for the child receiving services and 4 or more hours per day on days when school is not in session for the children receiving services, or the provider offers services for 4 or more hours per day on days when school is not in session for the children receiving services;~~
 - (g) to children who are at least 5 years of age; and
 - (h) for direct or indirect compensation.

Rationale / Explanation

Requiring child care providers to meet licensing standards provides a baseline of protection and helps prevent various forms of harm to children, such as risks from the spread of disease, fire and other safety hazards, physical or emotional injury from inadequate supervision, or the lack of healthy relationships with adults. National Center on Early Childhood Quality Assurance. *Research Brief #1: Trends in Child Care Center Licensing Regulations and Policies*. Fairfax, VA. (2015).

Compliance Guidelines

- Individuals who care for fewer than 5 children are not required by law to be regulated. However, an individual or business may request to be regulated by Child Care Licensing if they care for at least one qualifying child under the other conditions listed in 70-3(1)(a)-(h) above.
- Programs that provide 24-hour, live-in care are regulated as residential treatment facilities and are not licensed by Child Care Licensing.
- An “ongoing basis” means that children attend the program on a regular schedule, as opposed to occasional drop-in care.
- Direct compensation means that there is a cash payment for providing child care. Indirect compensation is a noncash payment of goods, time, or services for the child care that is provided.
- Noncompliance with this rule will be determined by the CCL complaint investigator.

High Risk Rule Violation

Corrective Action for 1st Instance

Citation and CMP Warning

- (2) **The Department may not license, nor is a license required for:**
- (a) **a person who serves related children only, or**
 - (b) **a person who provides services on a sporadic basis only.**

Rationale / Explanation

When a provider cares for related children only, in order to receive child care subsidy payments from the State, the provider must obtain an approval from the Division of Workforce Services (DWS). Instructions for obtaining this approval may be found at: childcarelicensing.utah.gov.